

December 14, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Communication, GN Docket No. 16-142

Dear Ms. Dortch:

On December 5, 2016, AT&T Services, Inc. and DISH Network L.L.C. submitted a letter in the above-referenced docket.¹ AT&T and DISH express concern that the latest revolution in broadcast technology, Next Generation TV, could increase their costs and thus urge the Commission to ensure that any transition does not impose new burdens on MVPDs.²

The National Association of Broadcasters, together with its fellow petitioners, have made plain that their petition asking the Commission to authorize voluntary use of the Next Generation TV standard would not require MVPDs to carry the Next Gen signal.³ In particular, the proposed rules petitioners have submitted to the Commission, as amended, provide that MVPDs can satisfy their carriage obligations by carrying a station's signal transmitted using the current standard.⁴ Simply put, petitioners have expressly proposed that MVPDs would not be required to carry Next Generation TV signals during the transition.

In their letter, AT&T and DISH ask the Commission "to ensure that, among other things, broadcasters cannot use the retransmission consent process to require MVPDs to carry the ATSC 3.0 signal."⁵ Retransmission consent negotiations are contractual negotiations between two private parties. While the Commission's rules require the parties to these negotiations to negotiate in good faith, AT&T and DISH appear to be asking the Commission

¹ Letter from Brendan F. Haggerty to Marlene H. Dortch, GN Docket No. 16-142 (Dec. 5, 2016) (AT&T-DISH Letter).

² *Id.* at 1.

³ Letter from Lonna M. Thompson, Julie M. Kearney, John M. Lawson and Rick Kaplan to Marlene H. Dortch, GN Docket No. 16-142 (May 26, 2016).

⁴ *Id.* at Appendix A.

⁵ AT&T-DISH Letter at 1.

for something more. In particular, they appear to be seeking to further their own interests by asking the Commission to dictate terms and conditions of future retransmission consent agreements now.

This is a remarkable request. As an initial matter, AT&T is a company with a market capitalization of more than \$250 billion. The notion that any local broadcaster could force AT&T to do anything is comical. Moreover, it is surprising that AT&T of all companies would be asking the government to intervene on its behalf to regulate the terms and conditions on which it negotiates private marketplace contracts.

More fundamentally, AT&T and DISH's concern that broadcasters will somehow "require" MVPDs to carry Next Generation TV signals appears to be nothing more than an effort to accomplish in this proceeding what they could not accomplish in the Commission's good faith negotiation proceeding earlier this year. Simply put, they are asking the Commission to intervene in retransmission consent negotiations for their narrow, self-interested benefit.

The bottom line is that the Next Generation TV petition has absolutely nothing to do with retransmission consent. It is about innovation to benefit consumers across the country. Any attempt by the pay-TV industry to slow down or stop this progress flies in the face of their opposition to government intervention with respect to nearly every other issue and demonstrates their fear of competition, especially from a service free to the public.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Rick Kaplan", with a long horizontal line extending from the end of the signature.

Rick Kaplan
General Counsel and Executive Vice President,
Legal and Regulatory Affairs
National Association of Broadcasters